

REMARKS

Reconsideration of the Office Action mailed October 1, 2004, (hereinafter "instant Office Action"), entry of the foregoing amendments and withdrawal of the rejection of claims 1 and 3-13 are respectfully requested.

In the instant Office Action, claims 1 and 3-13 are listed as pending and claims 1 and 3-13 are listed as rejected.

The Examiner has rejected claims 1 and 3-4 under 35 U.S.C. §102(a) as allegedly being unpatentable over 6,323,243 (hereinafter "Mueller"). The Examiner states "Mueller discloses a method of treating the symptoms of fibromyalgia (column 5, lines 64-66, column 16, example 17) using sibutramine (column 6, lines 63-67) and that the hydrochloride monohydrate is the preferred form." Applicants have amended claim 1 to delete "fibromyalgia" and insert "neuropathic pain". Support for this amendment can be found, *inter alia*, on page 1, lines 7-8 of the specification as originally filed.

Based upon the foregoing, the rejection of claims 1 and 3-4 under 35 U.S.C. §102(a) as being unpatentable over 6,323,243 is obviated and should be withdrawn.

The Examiner has rejected claims 1 and 3-13 under 35 U.S.C. §103(a) as allegedly being unpatentable over 6,323,243 (hereinafter "Mueller"). The Examiner states "Mueller discloses a method of treating the symptoms of fibromyalgia (column 5, lines 64-66, column 16, example 17) using sibutramine (column 6, lines 63-67) its hydrochloride salt and the monohydrate thereof." Applicants have amended claim 1 to delete "fibromyalgia" and insert "neuropathic pain". Support for this amendment can be found, *inter alia*, on page 1, lines 7-8 of the specification as originally filed.

Based upon the foregoing, the rejection of claims 1 and 3-13 under 35 U.S.C. §103(a) as being unpatentable over 6,323,243 is obviated and should be withdrawn.

The Examiner has rejected claims 1 and 3-13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,376,553. Applicants have amended claim 1 to delete "fibromyalgia" and insert "neuropathic pain". Support for this amendment can be found, *inter alia*, on page 1, lines 7-8 of the specification as originally filed.

Based upon the foregoing, the rejection of claims 1 and 3-13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,376,553 is obviated and should be withdrawn.

If the Examiner believes that a telephone conference would advance the condition of the instant application for allowance, Applicants invite the Examiner to call Applicants' agent at the number noted below.

Date: March 31, 2005

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